

**APPROVED MINUTES
YORK COUNTY PLANNING COMMISSION**

Regular Meeting
York Hall
March 14, 2001
7:00 PM

MEMBERS

Spencer W. Semmes, Chair
Andrew A. Simasek, Vice Chair
Robert E. Beil, Jr.
Robert D. Heavner
Michael H. Hendricks
Thomas G. Shepperd
Ann F. White

CALL TO ORDER

Chair Spencer Semmes called the meeting to order at 7:00 p.m. All of the members were present. Staff members present were James E. Barnett, Jr., J. Mark Carter, Timothy C. Cross, Michael S. King, and Olivia D. Wilkinson.

APPROVAL OF MINUTES

Ms. White requested a revision of the minutes of February 14, 2001 to indicate that the proposed Capital Improvements Program budget discussion about funding of school renovations was specifically about the priority of such funding. She then moved to approve the revised minutes and they were adopted by roll call vote of 7:0.

REMARKS BY THE CHAIR

The Chair welcomed visitors and explained the legal mandate of the Planning Commission, its composition of citizen volunteers, and its mission as an advisory body to the Board of Supervisors for all land use issues.

CITIZEN COMMENTS

There were no citizen comments.

ZONING ORDINANCE REVISION PROJECT COMMENTS

There were no comments on the Zoning Ordinance Revision project.

PUBLIC HEARINGS

Application No. ZT-56-01, York County Board Supervisors: Request to amend Chapter 24.1, Zoning, York County Code, to revise the definition of the term "marina" and to establish certain performance standards for "eating facilities" associated with marinas. The proposed amendment would limit the size of an accessory eating facility to

12 seats unless the Board of Supervisors approves a larger facility through the issuance of a Special Use Permit.

Mr. Mark Carter presented a summary of his memorandum to the Commission dated March 5, 2001. He pointed out that the purpose of the Board in sponsoring this application was to amend sections of the Zoning Ordinance to revise the definition of "marina" and to establish performance standards for eating facilities associated with marinas. He noted further that the application is for a general text amendment and is not related to any particular property. Mr. Carter said the staff supports initiatives to minimize the need for administrative determination of size and other characteristics, and pointed out that the flexibility of the language in PC01-12 would allow the Board of Supervisors to set the maximum size of an eating facility higher or lower than the guideline of one space for every two wet-slips. He said it would be helpful to provide a definition of the term "eating facilities" to clarify that such a facility could share some of the same characteristics as a restaurant without being characterized as a "restaurant" in the Zoning Ordinance. In closing, Mr. Carter recommended approval of the application. [The full text of Mr. Carter's remarks and his video presentation attached to the minutes of record.]

Mr. Shepperd asked why a 12-seat maximum is proposed. Mr. Carter said the Board, in sponsoring the text amendment, had suggested this number and that by being relatively low it would minimize the impact of marina traffic even if all permitted seats were to be occupied by the public. He pointed out, however, that the number of seats is open to discussion, as are other points of the proposed amendment. After adoption, he added, the Board could approve a greater number of seats on a case by case basis by the use permit process.

Mr. Carter added that the feature of an eating facility that distinguishes it from a restaurant, for the purposes of the proposed text amendment, is that an "eating facility" exists only as part of a marina even if it has characteristics like a restaurant.

There was brief discussion about the number of existing marinas in the County and their locations in relation to private residences. In response to Mr. Semmes' question about WC/I, GB and IG districts in relation to residential areas, Mr. Carter pointed out that there is one WC/I district located adjacent to an IG district along the York River near the Amoco and Vepco plants and the WC/I districts are located in the midst of or near residential areas. He explained that the WC/I districts were zoned after the marinas or water-oriented businesses were already there.

Mr. Simasek asked if the term "eating facility" appears anywhere else in the Zoning Ordinance, and Mr. Carter said it is a term used only in connection with marinas and only to distinguish it from a "restaurant," which is defined in the Ordinance and is permitted in certain other zoning districts, but not the WC/I. In checking with other jurisdictions, he continued, some refer to "eating facilities" only in conjunction with marinas and some refer to restaurants in conjunction with marinas.

Mr. Shepperd asked about the procedure with regard to the Dare Marina proposal if there had been no citizen complaints. Mr. Carter said the staff would be evaluating the plans that had been submitted and trying to determine what size eating facility properly constitutes an accessory and incidental use. One of the benefits of this amendment is to provide some guidance to the staff in determining an appropriately sized eating facility under the accessory and incidental stipulation that is provided in the

Ordinance, he said. Mr. Barnett added that the submittal by the operators of Dare Marina had exposed a weakness in the Zoning Ordinance that the Board sees a need to address by a revision to the Zoning Ordinance.

Mr. Hendricks expressed appreciation for the interest shown by the emails, letters and telephone calls he and other Commission members received from citizens about this application. He expressed a concern that there had been some misunderstanding, however, and attempted to clarify the Commission's role in the process. He said the Planning Commission is not engaged in any type of agreement with the Supervisors to "fast track" or in any other way to conspire for a particular outcome. He said the Board appoints the Commission, whose deliberations are independent of the Board, and the Commission will make its recommendation based on land use issues.

Mr. Semmes also acknowledged the "overwhelming number" of faxes and emails that he and others had received. He emphasized that the members had read all messages that were sent to them.

Chair Semmes opened the public hearing.

Ms. Myra C. McCain, 415 Sparrer Road, Seaford, thanked the staff for the work that has been done on this issue, which she described as a wrenching issue for her neighborhood. The marina near her, she said, has created noise and disturbance for the Rural Residential district in which she resides for a number of years and it does not even have a restaurant, and the quality of life has materially degraded over the last few years because of the marina. She requested a careful review of the proposed operating hours because if the hours were to be from 5:30 A.M. to 10:00 P.M., as proposed in the application, it would leave little quiet time in the neighborhood. She said the marina near her operates forklifts during all of its operating hours.

Mr. Ken Hespe, 711 Ship Point Road, said he is a member of York River Yacht Club in which he has held several offices, including Commodore. Mr. Hespe opposed the application because he believes an eating facility of sufficient size to serve yacht club members should be allowed, and responsible boaters would not cause any adverse effects on surrounding neighborhoods. He said he keeps two boats at the Dare Marina.

Mr. Richard Bartlett, 204 Basta Drive, is in the process of organizing a charter boat service in York County and would operate his business from Dare Marina. A great incentive for his business plan is a restaurant at Dare Marina to serve his customers. Mr. Bartlett feels that while the Chesapeake Bay offers the best fishing on the East Coast, there are no local charter fishing services. In other areas, he continued, charter boat businesses are served by facilities with restaurants. He said he would have to reconsider operating his business in the County if the subject application were approved.

Mr. Ned Lipscomb, 2115 Route 17, operates two businesses in York County, he said, and lives in Poquoson. He said that he was speaking on behalf of Dare Marina and believes it is an asset to York County.

Mr. Doug Truston, 1215 Waterview Road, said as owner of Wormley Creek Marina he expects his business to be negatively affected if the amendment is adopted, and recommended that it be denied or tabled to allow business owners more input.

Mr. Emmitt J. Short, 107 Lake Point Place, has been a resident and a businessman in York County for 15 years and operates a service station on Lakeside Drive and Route 17. He said he would like to see more and larger eating facilities at marinas in the County, for it would help York County grow, and he knows many people who would patronize such facilities. Mr. Short said that Herman's Harbor House Seafood Restaurant on Deep Creek Road in Hampton seats 200 patrons and he believed the road to Herman's to be more dangerous than Lakeside Drive but he knows of no complaints about that traffic.

Mr. Cason Barco, 227 Mediterranean Avenue, Virginia Beach, is a partner in Dare Marina, he said, and stated that the 1993 site plan submitted by the Marina was approved without an eating facility because no sewer or public water source was available at that time. He said many people have asked when Dare Marina will offer a full-service restaurant. Mr. Barco said an "eating facility" at a waterfront location is secondary to a full service marina, but is otherwise the same as any "restaurant."

Ms. Barbara Rode, 108 N. Beach Road, said that she moved from Michigan where it is very common to find restaurants as part of marinas. She said the trend in other parts of the country appears to be adding more amenities to the waterfront, and states outside of Virginia are adding more restaurants at marinas.

Mr. Michael P. Hanna, 6 Freemor Drive, Poquoson, is associated with Dare Marina as its manager and said it is a first-class operation. He said that he grew up in Seaford and enjoys the waterfront, and urged the Commission to recommend denial of the amendment.

Mr. Pat Milmo, said he has been a partner in Dare Marina for 10 years. Mr. Milmo said the marina has spent over \$2 million on improvements in the past 10 years, has a significant annual payroll and pays property taxes of \$40,000 annually. He said a marina must offer full service in order to be successful, and Dare Marina could not continue to operate if the text amendment is approved. He felt that people expect to get taken advantage of by the Board of Supervisors and don't want to "take it any more." Mr. Milmo was opposed to the amendment.

Mr. Jim Vaughn, 512 Wildey Road, introduced himself as part owner of Aqua Marine. He thought the whole issue came about because of the concerns of a few people who did not want Dare Marina to have a restaurant, and the outcome could affect his rights as a marina operator. Mr. Vaughn indicated it would not be economically feasible to open an eating facility to serve only 12 patrons at once given the cost of restaurant equipment and personnel. He also did not believe that traffic should be a consideration. He was opposed to the amendment.

Thomas Burcher, Esq., of Poquoson, represented Aqua Marine. He was opposed to more legislation without the input of all of the business people who, he said, could police themselves without added government limitations. He said that rock fishermen, in particular, are prevalent in local waters in the winter time. The closest restaurants for York boaters, he noted, are Bubba's in Poquoson and York River Yacht Haven in Gloucester. He believed that permitting marinas to operate restaurants would benefit the County, anglers, boat owners, and marina operators. Mr. Burcher requested that no action be taken on the proposed amendment.

Mr. Rusty Woods, 216 Timberline Loop, proposed that the County could use the approximately \$63,000 additional revenue per year that restaurants could generate. He said he and his neighbors are in favor of this opportunity for additional revenue and recommend denial of the proposed amendment.

Mr. Gary Woods, 796 Darden Drive, Newport News, said the owners of Dare Marina have drastically improved their property by adding docks and parking lots and keeping it neat. He thought they would run a restaurant with the same degree of pride and they should be allowed to do so.

Mr. Evan Peterson, 300 Blue Heron Drive, said he has kept his boat at Dare Marina for seven years, keeping it in a dry slip and using it approximately 100 times annually. Mr. Peterson said allowing only 12 seats for a marina eating facility is absurd and if that were common knowledge it would deter businesses from coming to the County. He said he is planning a cruise for area Rotarians and their families but has to have many of the activities in Hampton because the needed facilities are not available in York County.

Mr. Sam Briegel, 35 W. Governor Drive, Newport News, is yard manager at Goodwin Island Marine. Mr. Briegel said he has resided at several waterfront communities in several states where the focus was on reasonably-controlled waterfront facilities because the respective communities considered them assets. Other communities have capitalized on their waterfront areas by allowing controlled development. He said marinas have changed because today's boaters look for full service marinas for docking, including a nice sit-down restaurant. He felt the language of the proposed amendment is punitive and discourages development of existing and new marinas, the opposite direction he thinks the County should take. He recommended denial.

Mr. Bob McIntosh, 209 Belvin Lane, is owner-operator of Goodwin Island Marine. He stated that York County marinas have approximately 650 slips, 175 dry stack slots and over 3,500 registered boaters. He thinks the County needs bigger and full-service marinas, and developers who are willing to invest over \$6 million to expand to a first-class, full-service marina should be permitted to do so.

Mr. Jim Strong, 8 Rue de Grasse, Poquoson, is an owner of Aqua Marine. He thought the County should have contacted all marina owners before proposing this amendment, every condition of which Mr. Strong felt was restrictive and punitive and very likely to put marinas out of business in either the long or short term. He said that the entire East Coast has marinas with restaurants, and limiting an eating facility to 12 seats because it is near a residence is ridiculous. He said the local marina owners could work with residents and address their issues and still be allowed to operate a waterfront restaurant. At his suggestion, all those present who agreed with him stood. Mr. Strong recommended postponing any action at this time.

Mr. Ken Shaw, 821 Railway Road, said that in the history of this nation, businesses have provided for citizens and he thought they should be allowed to expand and serve the needs of their customers without new laws being enacted to prevent it. He was opposed to the amendment.

Mr. Kerry Nunn, 801 Railway Road, said he is among a group of citizens who oppose a restaurant and bar in his neighborhood although they are not opposed to boaters and business and are amenable to working cooperatively with waterfront business interests. He said he supports the proposed ordinance definition of "eating facility." He suggested a compromise by permitting a larger eating facility but in

a proper location with proper zoning and infrastructure. He said the neighborhood impact of a waterfront restaurant or bar would be tremendous if not suitably located.

Mr. Melvin J. Gendrom, 823 Railway Road, has lived next to Dare Marina for 20 years, he said. Mr. Gendrom was opposed to allowing a restaurant in a neighborhood because of light and noise impact. He thought that a new restaurant should not be permitted in an existing neighborhood.

Mr. Gary L. Giles, 111 Cheadle Point Road, Seaford, said his home is directly across the river from Dare Marina. He spoke of potential environmental impacts including light and sound, particularly high-pressure, unshielded, sodium lights, if an additional eating facility is permitted at the marina.

Mr. Allan Martin, 308 Anchor Drive, was opposed to a restaurant operating in a residential area and believed zoning restrictions should prevent that.

Ms. Barbara Higginbotham, 300 Dandy Loop Road, said there is a marina on her property that was formerly a food processing plant and fast food operation. She said approval of the proposal would put her out of business and recommended denial.

Patrick R. Pettitt, Esq., 201 Autumn Way, represented Ms. Higginbotham. He believed the proposed ordinance was a threat to the existing marinas in the County that had invested millions of dollars and that represent the only places in York County for citizens to dine on the waterfront. Mr. Pettitt indicated there are existing laws to ensure that businesses are good neighbors to adjacent property owners. He recommended denial of the ordinance because it would inhibit provision of the comprehensive range of marina services that residents want. Mr. Pettitt said if the marinas are not allowed to expand to provide a range of services, the land ultimately will be used by businesses that would have greater impact on the environment and the community, such as a seafood packing plant.

John R. Walk, Esq., of Hirschler, Fleischer, Wenberg, Cox & Allen, One Countryside Lane, Richmond, Virginia, represented Dare Marina, Inc. and said he had been a land use litigator for 20 years. Mr. Walk believed the proposal was ill considered and hastily brought before the Commission. He said the staff report indicated an increase or decrease could be made in ratio of the total wet and dry slips-to-eating facility seats, but the proposed ordinance speaks only to wet slips and permits only a reduction. Mr. Walk said his client has rights vested by a previously-approved site plan that includes improvements as well as an interpretation, and indicated that if the proposed amendment is adopted he will file a lawsuit against the County.

Mr. Ken Bowman, 109 York Point Drive, Seaford said he represented York Point Homeowners' Association comprised of 100 households, and Baytree Beach area homeowners. He said the citizens whom he represents concur overwhelmingly with a restaurant at Dare Marina. He also represented Seaford Yacht Club, which includes 118 members, whose members favor a restaurant at Dare Marina, he stated, and added that such a facility would allow citizens who do not own boats to enjoy the waterfront setting. Mr. Bowman recommended denial.

Mr. David Walden, 208 Old Lakeside Drive, was opposed to a revision because he favors marina expansion, he said. He believed the proposed text amendment to be unreasonable, unfair, and bordered on being unethical because it appeared the Board was attempting to stifle a particular project.

Mr. Carl Barrs, 833 Railway Road, said that he lives five houses beyond Dare Marina and he has never had any need to complain about it. Mr. Barrs supported having a restaurant without neon lights or a bar. He was opposed to changing the ordinance to restrict, limit or prevent business, especially since Dare Marina has invested in researching County business regulations, and to change regulations "after the fact is wrong." He thinks to kill land development is to kill business, and a few citizens who do not want a restaurant should not eliminate the opportunity for a good business "to do what it needs to do." He favored denial.

Mr. Kris Kuck, 122 August Drive, Seaford, was opposed to the application. He felt the Commission needs to encourage economic development and this application appears to be an attempt by the Board to stifle it. He noted that the Zoning Ordinance already restricts noise. He displayed a map showing marinas and WC/I zoning districts in the County. Mr. Kuck requested tabling the application because "the WC/I groups" have not reviewed it.

Mr. John Matthews, 210 Anchor Drive, represented several marinas, he said, including Dare Marina. He submitted petitions opposing the proposal that he indicated were signed by 1200 individuals. Mr. Matthews read from a memorandum to the York County Board of Supervisors from James O. McReynolds, County Administrator, dated January 29, 2001, subject "Dare Marina – Proposed Expansion":

Mr. Burgett and Mr. Wiggins have scheduled a meeting with myself and staff on February 2nd to discuss the proposed Dare Marina expansion and, particularly, the options available to the County to prevent the proposed "eating facility" from being a restaurant.

Mr. Matthews read what he identified as an excerpt from the Zoning Ordinance pertaining to the WC/I zoning district. He spoke of the deliberations that went into specific language for that district when the it was initially adopted by the Board as a separate zoning district. Mr. Matthews said the Comprehensive Plan, adopted in 1985, and the Zoning Ordinance have withstood several detailed reviews that resulted in reaffirmations of the WC/I district in both of those documents. He did not think the rules needed changing then nor does he think they need to be changed now. Mr. Matthews was opposed to approving the application.

Ms. Nancy Nunn, 801 Railway Road, said she had a number of concerns about the Dare Marina plan in addition to the restaurant issue.

Mr. Allen Bradshaw, 829 Railway Road, supported the proposed revision because it would protect the residents in the area of marinas. He noted that Railway Road had a well established neighborhood before Dare Marina was built.

Mr. Bob Alexander, 108 Harbor Crescent, Seaford, said he lives directly across the street from Seaford Yacht Club and events at Seaford Yacht Club, Amoco or Virginia Power club houses often create a lot of noise in his neighborhood. He said the Yacht Club has always responded to his complaints, and he believes other facilities would respond the same way because they want to be good neighbors. He was opposed to the application.

Ms. Ann Blanton, 828 Sparrer Road, said her home is directly across from both the marina and the railway and she is a yacht club member. Ms. Blanton plans yachting trips for yacht clubs and tries to find areas devoid of residential development for the group outings. She knows marinas have a lot of noise associated with them, and has on several occasions called the marina near her residence to complain about noise, but her complaints were ignored. She said the noise is quite loud at her residence particularly during start up in the mornings. She also believed that adding a restaurant would considerably diminish the value of her property.

Ms. Windsor Phillips, 131 Winn Road, said that her home is very close to Dare Marina. She was concerned about a proposed expansion of the marina because of anticipated increased traffic on Railway Road,. She did not think it would retain the quiet atmosphere she had chosen for raising her family and she had safety concerns for her children. She pleaded that the Commissioners consider the area as "a residential neighborhood of people who pay taxes."

Hearing no one else, the Chair closed the public hearing.

Mr. Semmes indicated there is merit on both sides of the issue and more guidance, clarification and study might be needed before the Commission makes a recommendation.

Responding to a procedural question, Mr. Barnett said that another public hearing is not necessary, but the Commission recommendation must be made at a public meeting. The Board will conduct a public hearing on this issue after it receives a recommendation from the Planning Commission, he added.

Mr. Hendricks said that Commissioners are alert to applications that appear to be arbitrary and capricious. He said there may be other issues to consider that are not apparent at this time, so he was not prepared to vote.

Mr. Shepperd inquired about the status of the Dare Marina site plan and was told it will not be held up pending any action on the subject application by the Commission or by the Board. Mr. Carter explained that the site plan is undergoing the usual review process. Mr. Shepperd asked if tabling action to provide time for a work session would disadvantage any group. Mr. Carter said it is difficult to know exactly when a review process will be complete but he thought there was sufficient time for the Commission to hold a work session. He added that a part of the site plan submittal – a traffic study – was forwarded last week to the Virginia Department of Transportation for review and it normally takes several weeks for that review.

Mr. Shepperd commended the staff on the research and the staff report, but expressed concern over the different interests of businesses and residents. He felt there were a number of questions to be answered before he could vote on a recommendation. He noted the issues to consider include types of business the County wants in WC/I districts, "changing the rules," lights and noise impact, and parameters for eating facilities. He recommended holding a work session. Mr. Beil and Mrs. White agreed.

Mr. Simasek emphasized that the application is not about Dare Marina and the Commission is responsible for looking at how this text amendment could affect existing and future business in the County. He thought that more information is desirable and was agreeable to holding a work session.

Mr. Hendricks moved to table proposed Resolution PC01-12 pending the Commission conducting a work session. The motion was approved by a roll call vote of 7:0.

RECESS / RECONVENE

The Chair called a recess at 9:25 p.m. The Commission reconvened by order of the Chair at 9:38 p.m.

PUBLIC HEARINGS, continued.

Application No. UP-571-01, Berrane Enterprises, Inc: Request for a special use permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (category 14, number 6), to authorize the establishment of a 34,900-square foot mini-storage warehouse facility behind Rip's convenience store on a 5.83-acre parcel located at 905 Denbigh Boulevard (Route 173) approximately 917 feet east of the Newport News city line and further identified as Assessor's Parcel No. 28-(1)-A. The property is zoned GB (General Business) and designated for General Business uses in the Comprehensive Plan

Mr. Tim Cross presented a summary of the staff memorandum dated March 6, 2001 in which the staff recommended approval by adopting Resolution PC01-08. Mr. Cross noted that over the past 18 months there have been six or more applications for mini-storage warehouses, all but one having been recommended by the staff for denial. He summarized the features that distinguish this one from other recent applications for mini-storage facilities.

The Chair opened the public hearing.

Mr. Charles Berrane, Berrane Enterprises, 2231 Route 17, appeared on behalf of his application and offered to answer questions.

Mr. Berrane, responding to questions, indicated that existing signage for the convenience store will be enhanced to include the mini storage business; he will enhance the existing buffer; he would be amenable to a prohibition on chain link fencing; and he does not object to the proposed conditions.

The Chair closed the public hearing.

Mr. Semmes asked when the approved residential developments on either side of the property would be constructed; Mr. Cross said that staff has recently met with the developer, who has modified his development plans. The developer hopes to start construction this year.

Mr. Semmes wanted to know if the transitional buffer in the rear would be the applicant's property, and Mr. Cross noted that Mr. Berrane has agreed to provide the full transitional buffer on his property although the Zoning Ordinance would provide for a shared buffer in this case.

Mr. Beil inquired about the need for a traffic turn lane headed east on Denbigh Boulevard. Mr. Cross said there is no need at this time because mini-storage facilities are very low traffic generators, but if it were needed in the future, it would be generated by the convenience store, not by the proposed use.

Mrs. White asked about other permitted uses for the property. Mr. Cross explained that most types of retail operations are permitted in a General Business district, but because of the low visibility of the location, the economic viability is limited. This is another grounds for the recommendation of approval, he said. Mr. Shepperd added that the proposed business might generate more growth in the area.

Mr. Hendricks moved the adoption of PC01-8(R) with a revision to Condition 12 to eliminate the use of chain link fencing. It was approved by a roll call vote of 7:0.

PC01-8(R)

On motion of Mr. Hendricks, which carried 7:0, the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO
AUTHORIZE A MINI-STORAGE WAREHOUSE FACILITY AT 905 DENBIGH
BOULEVARD**

WHEREAS, Berrane Enterprises, Inc. has submitted Application No. UP 571-01, which requests a special use permit, pursuant to Section 24.1-306 (Category 14, No. 6) of the York County Zoning Ordinance, to authorize a 34,900-square foot mini-storage warehouse facility on a 5.83-acre parcel located at 905 Denbigh Boulevard (Route 173) approximately 917 feet east of the Newport News city line and further identified as Assessor's Parcel No. 28-(1)-A; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 14th day of March, 2001 the Application No. UP-571-01 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a 34,900-square foot mini-storage warehouse facility on a 5.83-acre parcel located at 905 Denbigh Boulevard (Route 173) approximately 917 feet east of the Newport News city line and further identified as Assessor's Parcel No. 28-(1)-A, subject to the following conditions:

1. This use permit shall authorize a 34,900-square foot mini-storage warehouse facility on a 5.83-acre parcel located at 905 Denbigh Boulevard (Route 173) approximately 917 feet east of the Newport News city line and further identified as Assessor's Parcel No. 28-(1)-A.
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County prior to the commencement of any construction or land clearing activities on the site. Said site plan shall be in substantial conformance with the sketch plan titled "Development Plan of Colony Pines Self Storage," prepared by Davis & Associates, P.C. and dated January 25, 2001, except as modified herein.

3. The mini-storage warehouse facility shall be developed and operated in accordance with the standards set forth in Sections 24.1-483, Standards for all wholesaling and warehouse uses, and 24.1-484, Standards for mini-storage warehouses, of the York County Zoning Ordinance.
4. The development shall be limited to a maximum of 34,900 net square feet of rentable space.
5. The hours of operation of the facility shall be limited to 6:00 a.m. to 9:00 p.m. daily.
6. All buildings facing either Denbigh Boulevard (Route 173) or the PD-zoned property to the rear of the parcel shall have façades of brick, stucco, or similar decorative building materials.
7. A Type 35 (35-foot) transitional buffer shall be provided along the rear of the property.
8. A twenty-foot (20') landscape yard shall be provided along the parcel frontage adjacent to Denbigh Boulevard and shall be landscaped in accordance with the planting ratios set forth in Section 24.1-242(h)(1) of the York County Zoning Ordinance.
9. Access to the site shall be from the existing Rip's convenience store entrances. No additional entrance on Denbigh Boulevard (Route 173) shall be permitted.
10. All warehouse bay doors shall face the inside of the mini-storage warehouse development. No warehouse doors shall be located along or in the exterior façade of the mini-storage warehouse development.
11. The parcel, including the existing Rip's convenience store and the mini-storage warehouse facility, shall be limited to one freestanding sign meeting all sign area, height, and location standards set forth in Article VII of the Zoning Ordinance.
12. All fencing shall be of a masonry, wrought iron, or similar decorative material. The use of theft-deterrent wire (i.e., barbed wire, razor wire, etc.) anywhere on the property shall not be permitted.
13. Building height shall be no greater than fifteen feet (15'), as measured from the finish grade, except for any gables on the decorative facade, which may be no greater than thirty feet (30'), as measured from the finish grade.
14. Outdoor lighting shall be full cutoff luminaires or a decorative luminaire with full cutoff optics. All lighting shall be directed downward and shall not spill over onto adjacent properties or public rights-of-way. All lighting except low-level security lighting shall be extinguished between the hours of 11:00 PM and dawn. In addition, the applicant shall submit a photometric plan indicating all outdoor lighting on the site. This plan shall be approved by the Planning Division prior to the installation of any lighting on the site.
15. Development of the mini-warehouse project shall be contingent on the provision of an adequate water supply for firefighting, as required by Section 24.1-261(b)(2) of the Zoning Ordinance. Compliance with this requirement for this particular development project shall require one of the following to be accomplished:
 - a) A public water supply adequately sized for required fire flows shall be extended to the project site, and fire hydrants shall be installed on the site at such locations determined by the fire chief to be necessary to provide appropriate fire protection coverage; or

- b) The developer shall install or guarantee the installation of the on-site components of the public water supply and fire hydrant system described in Sub-paragraph 15 a) above so as to accommodate future connection to the public water supply required to be extended to the subject site by others under the terms of the Colony Pines of York Planned Development approval (reference Ordinance No. O92-37(R)). The developer shall agree to construct such on-site components and/or connect to the public water supply within 180 days of being notified by the County Administrator that water lines have been extended to the property. The developer's obligation to install and/or connect the on-site fire protection system to the public water supply at such time as it is extended to his property line shall be guaranteed and secured by a letter of credit or cash escrow in an amount determined by the County Administrator. In addition, the developer shall provide an adequate on-site water storage system (tank or pond) or other acceptable arrangement, as determined by the York County Department of Fire and Life Safety, which is capable of supplying fire flow needs on an interim basis until such time as the public water supply connection is made.

- 16. The applicant shall be responsible for compliance with the regulations in Section 24.1-115(b)(6) of the Zoning Ordinance that pertain to the recordation of this resolution in the office of the Clerk of the Circuit Court.

Application No. ZM-55-01 and UP-573-01, Kenneth Dale Moore: These applications request the following for property located approximately 350' from the intersection of Wolftrap Road (Route 630) and George Washington Memorial Highway (Route 17): (1) Reclassification of approximately 2.2 acres from R20 (Medium Density Single Family Residential) to GB (General Business); and (2) approval of a special use permit, contingent upon the rezoning request, to authorize a 34,600 square foot mini-storage warehouse facility pursuant to Section 24.1-306 of the York County Zoning Ordinance (category 14, number 6). If approved, the warehouse will be a satellite of the Stor Moore mini-storage facility that is located at 6000 George Washington Memorial Highway (Route 17). The parcels are further identified by Assessor's Parcel Nos. 29-32A, 29-39, and 29-42. The Comprehensive Plan designates this area for Medium Density Single Family Residential and General Business uses.

Mr. Michael King presented a summary of the staff report to the Commission dated March 7, 2001, in which the staff recommended approval of both applications by the adoption of Resolution numbers PC01-10 and PC01-11, respectively. Mr. King added the staff considers the proposed use to be "the right use at the right location."

Chair Semmes opened the public hearing.

Mr. Lamont Myers, Mid-Atlantic Commercial Realty, 3630-H George Washington Memorial Highway, represented the applicant and property owners Garvey and Graham. He believes that the site selected by the applicant satisfies the Commission's previously expressed concerns with regard to visibility, site design and economic impact. He displayed a rendering of the proposed mini-storage

facility as viewed from Wolftrap Road and said the applicant believes the proposal will provide a logical transitional land use between the existing residential community to the east and the more intense business use - a gasoline-convenience store - that will be constructed on Route 17, and further will provide a noise buffer for the residents. It will generate less traffic on Wolftrap Road than would five homes that would be allowed by right. The applicant will provide more landscaping than is required by the Zoning Ordinance, he continued. Mr. Myers said the applicant had received no opposition or complaints from the neighbors he was able to contact. He also noted that the business, if developed as proposed, would have a positive fiscal impact on the County.

Mr. Myers requested an increase to 37,600 square feet of floor space to allow the addition of one small building.

Mr. Hendricks inquired if the applicant would be agreeable to a prohibition on chain link fencing. Mr. Dale Moore said he would be agreeable to eliminating chain link fencing from all sides visible from Wolftrap Road but would like to use chain link fencing at the rear of the property, behind Grafton Shopping Center. He ensured that all of the fencing would be attractive. The discussion continued about landscaping as a buffer between the proposed use and the existing developments, and about the existing stormwater drainage for the property. The applicant is discussing with the management of the future gas-convenience business to jointly build a stormwater retention pond but has a secondary plan if that does not work out, according to Mr. Myers. Mr. Moore said that if it became necessary he could connect to an established storm drainage system.

Mr. Simasek asked if staff had been aware of the request for an additional 3,000 square feet. Mr. King said the request was made earlier today after which he had studied the implications of the additional area and concluded it is within the terms of the proposal and should cause no negative impact. Mr. Moore explained that he did not know exactly where the 3,000 square feet might be until final drawings are completed. It would not affect the buffer, and Mr. King added that the buffers as planned are satisfactory to the staff.

Mr. Shepperd said that, after studying in some detail the fiscal impact of the proposal, in his opinion this would be a good use of the property.

Responding to Ms. White's concerns about how it might be used as a satellite facility of the current operation, Mr. Moore explained that a phone and video camera will operate at the entrance gate to connect users of this facility to the existing management office.

Mr. Simasek asked about possible competition with the mini-storage facility proposed by Berrane Enterprises, and Mr. Moore indicated that the respective locations of the two businesses should attract different clientele but it could engender some healthy competition.

The Chair closed the public hearing. Mr. Simasek moved for approval of Application ZM-55-01 by the adoption of Resolution PC01-10. The motion was approved 7:0 by roll call vote.

PC01-10

On motion of Mr. Simasek, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZM-55-01 TO AMEND THE YORK COUNTY ZONING MAP BY RECLASSIFYING APPROXIMATELY 2.2 ACRES FROM R20 (MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL) TO GB (GENERAL BUSINESS)

WHEREAS, Kenneth Dale Moore has submitted Application No. ZM-55-01 which requests an amendment to the York County Zoning Map by reclassifying from R20 (Medium Density Single Family Residential) to GB (General Business) 2.2 acres located approximately 350-feet from Wolftrap Road's intersection with Route 17 and is further identified as Assessor's Parcel Nos. 29-32A, 29-39, and 29-42; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 14th day of March, 2001, that Application No. ZM-55-01 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying from R20 (Medium Density Single Family Residential) to GB (General Business) 2.2 acres. The parcel is further identified as Assessor's Parcel Nos. 29-32A, 29-39, and 29-42 and is more fully identified and described as follows:

Beginning at a point on the southerly right-of-way line of Wolftrap Road, 353' from the easterly right-of-way line of George Washington Memorial Highway; with a point of beginning thus established; thence running in an easterly direction along the southerly right-of-way line of Wolftrap Road on a curve to the left with an arc of 234.62' and a radius of 2,909.79' to a point at the corner of the lands of James Otis Riggins Jr.; thence running along the line of James Otis Riggins Jr. S 43-59-09 E, a distance of 374.87' to a point; thence S 49-50-45 W, A distance of 273.80' to a point; Thence N 38-00-06 W, a distance of 386.14' to the point of beginning, containing 2.206 acres and being comprised of 1.869 acres belonging to Allen Barbee Jr. & John B. Graham and .337 acres belonging to Sherry L. Amory.

Mr. Hendricks moved the adoption of Resolution PC01-11(R) to recommend approval of Application UP-573-01 and it carried by roll call vote of 7:0.

PC01-11(R)

On motion of Mr. Hendricks, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE A MINI-STORAGE WAREHOUSE FACILITY

WHEREAS, Kenneth Dale Moore has submitted Application No. UP 573-01, which requests a special use permit, pursuant to Section 24.1-306 (Category 14, No. 6) of the York County Zoning

Ordinance, to authorize a 37,600-square foot mini-storage warehouse facility on 2.2 acres located approximately 350 feet east of Wolftrap Road's intersection with Route 17 and further identified as Assessor's Parcel Nos. 29-32A, 29-39, and 29-42; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 14th day of March, 2001 the Application No. UP-573-01 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a 37,600-square foot mini-storage warehouse facility on a 2.2 acres located approximately 350 feet east of Wolftrap Road's intersection with Route 17 and further identified as Assessor's Parcel Nos. 29-32A, 29-39, and 29-42, subject to the following conditions:

1. This use permit shall authorize a 37,600-square foot mini-storage warehouse facility on a 2.2-acre parcel located at 204 Wolftrap Road (Route 630) approximately 350 feet from Wolftrap Road's intersection with Route 17 and further identified as Assessor's Parcel Nos. 29-32A, 29-39, and 29-42.
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County prior to the commencement of any construction or land clearing activities on the site. Said site plan shall be in substantial conformance with the sketch plan titled "Sketch Showing Proposed Self Storage Development by Dale Moore," prepared by Campbell Land Surveying, Inc., and dated January 31, 2001, except as modified herein.
3. The mini-storage warehouse facility shall be developed and operated in accordance with the standards set forth in Sections 24.1-483, Standards for all wholesaling and warehouse uses, and 24.1-484, Standards for mini-storage warehouses, of the York County Zoning Ordinance.
4. The development shall be limited to a maximum of 37,600 net square feet of rentable space.
5. The hours of operation of the facility shall be limited to 6:00 a.m. to 9:00 p.m. daily.
6. All buildings facing Wolftrap Road (Route 630) shall have façades of brick with a gable roof line.
7. A Type-35 (35-foot) transitional buffer using Type-50 (50-foot) planting ratios shall be provided along the edge of the property where a transitional buffer is required. Evergreen trees that form a continuous row of screening shall be installed along the western edge of the site between the mini-storage facility and the existing commercially zoned property to the west.
8. A twenty-foot (20') landscape yard shall be provided along the parcel frontage Wolftrap Road and shall be landscaped in accordance with the planting ratios set forth in Section 24.1-242(h)(1) of the York County Zoning Ordinance.

9. Access to the site shall be from one entrance on Wolftrap Road (Route 630). No additional entrances shall be permitted.
10. All warehouse bay doors shall face the inside of the mini-storage warehouse development. No warehouse doors shall be located along or in the exterior façade of the mini-storage warehouse development.
11. One ground-mounted monument style sign not to exceed 10 feet in height shall be permitted.
12. The fencing facing Wolftrap Road shall be wrought iron style. All other fencing shall be of masonry or a wrought iron style, except for the southeast side of the site (rear portion) which may be constructed of green or black vinyl-coated chain link. The use of theft-deterrent wire (i.e., barbed wire, razor wire, etc.) anywhere on the property shall not be permitted.
13. Outdoor lighting shall be full cutoff luminaires or a decorative luminaire with full cutoff optics. All lighting shall be directed downward and shall not spill over onto adjacent properties or public rights-of-way. All lighting, except low-level security lighting, shall be extinguished between the hours of 11:00 PM and dawn. In addition, the applicant shall submit a photometric plan indicating all outdoor lighting on the site as part of the site plan submission process. This plan shall be approved by the Planning Division prior to the installation of any lighting on the site.
14. Building height shall be no greater than fifteen feet (15'), as measured from the finish grade.
15. Development of the mini-storage warehouse project shall be contingent on the provision of an adequate water supply for fire fighting, as required by Section 24.1-261(b)(2) of the Zoning Ordinance. Compliance with this requirement for this particular development project shall require the following to be accomplished: A public water supply adequately sized for required fire flows and fire hydrants installed on site at such locations determined by the Department of Fire and Life Safety to be necessary to provide fire protection coverage.
16. The applicant shall be responsible for compliance with the regulations in Section 24.1-115(b)(6) of the Zoning Ordinance that pertain to the recordation of this resolution in the office of the Clerk of the Circuit Court.

NEW BUSINESS

The Commission scheduled a work session March 28 to consider Application ZT-56-01. Mr. Cross suggested holding another work session before May 9 to review Chesapeake Bay Act amendments because the Comprehensive Plan, which is being revised to address the amendments, must go to the Board in July with a recommendation from the Commission. The members scheduled that work session to be April 25. Both meetings will convene in the East Room at 7:00 P.M.

STAFF REPORTS

Mr. Cross reminded the members of the public information meeting with Yorktown property owners on March 21, and stated a member of the Planning staff with the City of Petersburg who has experience working with an architectural review board will attend the meeting. Mr. Cross told the

members about a joint meeting for the Planning Commission and the Board of Supervisors on April 24, the location and time to be announced by County Administration.

Mr. Cross reported on recent Board actions.

ADJOURNMENT

There being no further business, Chair Semmes called adjournment at 8:30 p.m.

SUBMITTED: _____/s/_____
Phyllis P. Liscum, Secretary

APPROVED: _____/s/_____
Spencer W. Semmes, Chair

DATE: April 11, 2001